

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X  
NATIONAL RAILROAD PASSENGER  
CORP.,

Plaintiff,

Civil Action No.:  
07 CIV 6288

-against-

T.C. JOHNSON COMPANY,  
TRANSPORTATION RESOURCES  
INC., MITCHELL EQUIPMENT  
CORPORATION, TEREX  
CORPORATION, KOEHRING  
CRANES, INC. d/b/a TEREX  
CRANES WAVERLY, and TEREX  
CRANES, INC.,

**DEFENDANT  
TRANSPORTATION  
RESOURCES, INC.'S  
ANSWER TO PLAINTIFF  
NATIONAL RAILROAD  
PASSENGER CORP.'S  
COMPLAINT DATED JULY 9,  
2007**

Defendants.

-----X  
Defendant TRANSPORTATION RESOURCES, INC. ("TRI"), by its attorneys,  
SEDGWICK, DETERT, MORAN & ARNOLD, LLP, as and for its Answer to the  
Complaint of plaintiff NATIONAL RAILROAD PASSENGER CORP. dated July 9, 2007,  
respectfully sets forth the following upon information and belief:

1. Denies knowledge or information sufficient to form a belief as to the truth  
of each and every allegation contained in paragraph "1" of the Complaint.
2. Denies knowledge or information sufficient to form a belief as to the truth  
of each and every allegation contained in paragraph "2" of the Complaint.
3. Denies knowledge or information sufficient to form a belief as to the truth  
of each and every allegation contained in paragraph "3" of the Complaint.

4. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “4” of the Complaint.

5. Denies each and every allegation contained in paragraph “5” of the Complaint and respectfully refers all questions of law to the Honorable Court.

6. Denies each and every allegation contained in paragraph “6” of the Complaint and respectfully refers all questions of law to the Honorable Court.

7. Denies each and every allegation contained in paragraph “7” of the Complaint and respectfully refers all questions of law to the Honorable Court.

8. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “8” of the Complaint.

9. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “9” of the Complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “10” of the Complaint, except admits that TRI is a foreign corporation.

11. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “11” of the Complaint, expect admits that TRI is located in Gladstone, Missouri.

#### **STATEMENT OF FACTS**

12. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “12” of the Complaint.

13. Denies each and every allegation contained in paragraph “13” of the Complaint but admits that Louis Cevasco has commenced a lawsuit.

14. Denies each and every allegation contained in paragraph “14” of the Complaint except admits that Jugal K. Sood has commenced a lawsuit.

15. Denies each and every allegation contained in paragraph “15” of the Complaint except admits that Girolamo Vitale and Joseph Adornetti have commenced lawsuits.

16. Denies each and every allegation contained in paragraph “16” of the Complaint except admits that Edley Gayle has commenced a lawsuit.

17. Denies each and every allegation contained in paragraph “17” of the Complaint except admits that the five listed plaintiffs have commenced lawsuits.

18. Denies each and every allegation contained in paragraph “18” of the Complaint.

19. Denies each and every allegation contained in paragraph “19” of the Complaint.

**AS AND FOR AN ANSWER TO THE FIRST CAUSE OF ACTION**

20. In response to paragraph “20” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “19” inclusive, with the same force and effect as if more fully set forth at length herein.

21. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “21” of the Complaint.

22. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “22” of the Complaint.

23. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “23” of the Complaint.

24. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “24” of the Complaint.

25. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “25” of the Complaint.

26. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “26” of the Complaint.

27. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “27” of the Complaint.

28. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “28” of the Complaint.

29. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “29” of the Complaint.

30. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “30” of the Complaint.

31. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “31” of the Complaint.

32. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “32” of the Complaint.

33. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “33” of the Complaint.

34. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “34” of the Complaint.

35. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “35” of the Complaint.

**AS AND FOR A SECOND CAUSE OF ACTION**

36. In response to paragraph “36” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “35” inclusive, with the same force and effect as if more fully set forth at length herein.

37. Denies each and every allegation contained in paragraph “37” of the Complaint.

38. Denies each and every allegation contained in paragraph “38” of the Complaint.

39. Denies each and every allegation contained in paragraph “39” of the Complaint.

**AS AND FOR A THIRD CAUSE OF ACTION**

40. In response to paragraph “40” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “39” inclusive, with the same force and effect as if more fully set forth at length herein.

41. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “41” of the Complaint.

42. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “42” of the Complaint.

43. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “43” of the Complaint.

44. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “44” of the Complaint.

45. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “45” of the Complaint.

**AS AND FOR A FOURTH CAUSE OF ACTION**

46. In response to paragraph “46” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “45” inclusive, with the same force and effect as if more fully set forth at length herein.

47. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “47” of the Complaint.

48. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “48” of the Complaint.

49. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “49” of the Complaint.

50. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “50” of the Complaint.

51. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “51” of the Complaint.

52. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “52” of the Complaint.

53. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “53” of the Complaint.

54. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “54” of the Complaint.

**AS AND FOR A FIFTH CAUSE OF ACTION**

55. In response to paragraph “55” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “54” inclusive, with the same force and effect as if more fully set forth at length herein.

56. Denies each and every allegation contained in paragraph “56” of the Complaint, except admits that TRI is a foreign corporation.

57. Denies each and every allegation contained in paragraph “57” of the Complaint, except admits that TRI is a foreign corporation.

58. Denies each and every allegation contained in paragraph “58” of the Complaint.

59. Denies each and every allegation contained in paragraph “59” of the Complaint.

60. Denies each and every allegation contained in paragraph “60” of the Complaint and respectfully refers all questions of law to the Honorable Court.

61. Denies each and every allegation contained in paragraph “61” of the Complaint.

62. Denies each and every allegation contained in paragraph “62” of the Complaint.

63. Denies each and every allegation contained in paragraph “63” of the Complaint.

64. Denies each and every allegation contained in paragraph “64” of the Complaint.

65. Denies each and every allegation contained in paragraph “65” of the Complaint.

66. Denies each and every allegation contained in paragraph “66” of the Complaint.

67. Denies each and every allegation contained in paragraph “67” of the Complaint.

68. Denies each and every allegation contained in paragraph “68” of the Complaint.

69. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “69” of the Complaint.



70. Denies each and every allegation contained in paragraph “70” of the Complaint.

**AS AND FOR A SIXTH CAUSE OF ACTION**

71. In response to paragraph “71” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “70” inclusive, with the same force and effect as if more fully set forth at length herein.

72. Denies each and every allegation contained in paragraph “72” of the Complaint.

73. Denies each and every allegation contained in paragraph “73” of the Complaint.

74. Denies each and every allegation contained in paragraph “74” of the Complaint.

**AS AND FOR A SEVENTH CAUSE OF ACTION**

75. In response to paragraph “75” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “74” inclusive, with the same force and effect as if more fully set forth at length herein.

76. Denies each and every allegation contained in paragraph “76” of the Complaint.

77. Denies each and every allegation contained in paragraph “77” of the Complaint.

78. Denies each and every allegation contained in paragraph “78” of the Complaint.

79. Denies each and every allegation contained in paragraph “79” of the Complaint.

80. Denies each and every allegation contained in paragraph “80” of the Complaint.

81. Denies each and every allegation contained in paragraph “81” of the Complaint.

**AS AND FOR A EIGHTH CAUSE OF ACTION**

82. In response to paragraph “82” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “81” inclusive, with the same force and effect as if more fully set forth at length herein.

83. Denies each and every allegation contained in paragraph “83” of the Complaint.

84. Denies each and every allegation contained in paragraph “84” of the Complaint.

85. Denies each and every allegation contained in paragraph “85” of the Complaint and refers all questions of law contained therein to the Honorable Court.

86. Denies each and every allegation contained in paragraph “86” of the Complaint.

87. Denies each and every allegation contained in paragraph “87” of the Complaint.

88. Denies each and every allegation contained in paragraph “88” of the Complaint.

89. Denies each and every allegation contained in paragraph “89” of the Complaint.

90. Denies each and every allegation contained in paragraph “90” of the Complaint.

**AS AND FOR A NINTH CAUSE OF ACTION**

91. In response to paragraph “91” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “90” inclusive, with the same force and effect as if more fully set forth at length herein.

92. Denies each and every allegation contained in paragraph “92” of the Complaint and refers all questions of law contained therein to the Honorable Court.

93. Denies each and every allegation contained in paragraph “93” of the Complaint and refers all questions of law contained therein to the Honorable Court.

94. Denies each and every allegation contained in paragraph “94” of the Complaint.

95. Denies each and every allegation contained in paragraph “95” of the Complaint.

96. Denies each and every allegation contained in paragraph “96” of the Complaint.

**AS AND FOR A TENTH CAUSE OF ACTION**

97. In response to paragraph "97" of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs "1" through "96" inclusive, with the same force and effect as if more fully set forth at length herein.

98. Denies each and every allegation contained in paragraph "98" of the Complaint.

99. Denies each and every allegation contained in paragraph "99" of the Complaint.

100. Denies each and every allegation contained in paragraph "100" of the Complaint.

**AS AND FOR A ELEVENTH CAUSE OF ACTION**

101. In response to paragraph "101" of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs "1" through "100" inclusive, with the same force and effect as if more fully set forth at length herein.

102. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph "102" of the Complaint.

103. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph "103" of the Complaint.

104. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph "104" of the Complaint.

105. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “105” of the Complaint.

106. Denies each and every allegation contained in paragraph “106” of the Complaint.

**AS AND FOR A TWELFTH CAUSE OF ACTION**

107. In response to paragraph “107” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “106” inclusive, with the same force and effect as if more fully set forth at length herein.

108. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “108” of the Complaint.

109. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “109” of the Complaint.

110. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “110” of the Complaint.

111. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “111” of the Complaint.

112. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “112” of the Complaint.

113. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “113” of the Complaint.

114. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “114” of the Complaint.

115. Denies each and every allegation contained in paragraph “115” of the Complaint.

**AS AND FOR A THIRTEENTH CAUSE OF ACTION**

116. In response to paragraph “116” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “115” inclusive, with the same force and effect as if more fully set forth at length herein.

117. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “117” of the Complaint.

118. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “118” of the Complaint.

119. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “119” of the Complaint.

120. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “120” of the Complaint.

121. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “121” of the Complaint.

122. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “122” of the Complaint.

123. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “123” of the Complaint.

124. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “124” of the Complaint.



125. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “125” of the Complaint.

126. Denies each and every allegation contained in paragraph “126” of the Complaint.

127. Denies each and every allegation contained in paragraph “127” of the Complaint.

128. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “128” of the Complaint.

129. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “129” of the Complaint.

130. Denies each and every allegation contained in paragraph “130” of the Complaint.

131. Denies each and every allegation contained in paragraph “131” of the Complaint.

132. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “132” of the Complaint.

133. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “133” of the Complaint.

**AS AND FOR A FOURTEENTH CAUSE OF ACTION**

134. In response to paragraph “134” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in

paragraphs “1” through “133” inclusive, with the same force and effect as if more fully set forth at length herein.

135. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “135” of the Complaint.

136. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “136” of the Complaint.

137. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “137” of the Complaint.

**AS AND FOR A FIFTEENTH CAUSE OF ACTION**

138. In response to paragraph “138” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “137” inclusive, with the same force and effect as if more fully set forth at length herein.

139. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “139” of the Complaint.

140. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “140” of the Complaint.

141. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “141” of the Complaint.

142. Denies each and every allegation contained in paragraph “142” of the Complaint.

143. Denies each and every allegation contained in paragraph “143” of the Complaint.

144. Denies each and every allegation contained in paragraph “144” of the Complaint.

145. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “145” of the Complaint.

146. Denies each and every allegation contained in paragraph “146” of the Complaint.

**AS AND FOR A SIXTEENTH CAUSE OF ACTION**

147. In response to paragraph “147” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “146” inclusive, with the same force and effect as if more fully set forth at length herein.

148. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “148” of the Complaint.

149. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “149” of the Complaint.

150. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “150” of the Complaint.

151. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “151” of the Complaint.

152. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “152” of the Complaint.

153. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “153” of the Complaint.

154. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “154” of the Complaint.

155. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “155” of the Complaint.

**AS AND FOR A SEVENTEENTH CAUSE OF ACTION**

156. In response to paragraph “156” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “155” inclusive, with the same force and effect as if more fully set forth at length herein.

157. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “157” of the Complaint.

158. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “158” of the Complaint.

159. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “159” of the Complaint.

160. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “160” of the Complaint.

161. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “161” of the Complaint.

162. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “162” of the Complaint.

163. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “163” of the Complaint.

164. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “164” of the Complaint.

165. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “165” of the Complaint.

166. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “166” of the Complaint.

167. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “167” of the Complaint.

168. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “168” of the Complaint.

169. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “169” of the Complaint.

170. Denies each and every allegation contained in paragraph “170” of the Complaint.

171. Denies each and every allegation contained in paragraph “171” of the Complaint.

172. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “172” of the Complaint.

173. Denies each and every allegation contained in paragraph “173” of the Complaint.

**AS AND FOR A EIGHTEENTH CAUSE OF ACTION**

174. In response to paragraph “174” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “173” inclusive, with the same force and effect as if more fully set forth at length herein.

175. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “175” of the Complaint.

176. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “176” of the Complaint.

177. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “177” of the Complaint.

**AS AND FOR A NINETEENTH CAUSE OF ACTION**

178. In response to paragraph “178” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “177” inclusive, with the same force and effect as if more fully set forth at length herein.

179. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “179” of the Complaint.

180. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “180” of the Complaint.

181. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “181” of the Complaint.

182. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “182” of the Complaint.

183. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “183” of the Complaint.

184. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “184” of the Complaint.

185. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “185” of the Complaint.

186. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “186” of the Complaint.

187. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “187” of the Complaint.

188. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “188” of the Complaint.

**AS AND FOR A TWENTIETH CAUSE OF ACTION**

189. In response to paragraph “189” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in

paragraphs “1” through “188” inclusive, with the same force and effect as if more fully set forth at length herein.

190. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “190” of the Complaint.

191. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “191” of the Complaint.

192. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “192” of the Complaint.

193. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “193” of the Complaint.

194. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “194” of the Complaint.

195. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “195” of the Complaint.

196. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “196” of the Complaint.

197. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “197” of the Complaint.

**AS AND FOR A TWENTY-FIRST CAUSE OF ACTION**

198. In response to paragraph “198” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in



paragraphs “1” through “197” inclusive, with the same force and effect as if more fully set forth at length herein.

199. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “199” of the Complaint.

200. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “200” of the Complaint.

201. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “201” of the Complaint.

202. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “202” of the Complaint.

203. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “203” of the Complaint.

204. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “204” of the Complaint.

205. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “205” of the Complaint.

206. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “206” of the Complaint.

207. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “207” of the Complaint.

208. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “208” of the Complaint.

209. Denies each and every allegation contained in paragraph “209” of the Complaint.

210. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “210” of the Complaint.

211. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “211” of the Complaint.

212. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “212” of the Complaint.

213. Denies each and every allegation contained in paragraph “213” of the Complaint.

214. Denies each and every allegation contained in paragraph “214” of the Complaint.

215. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “215” of the Complaint.

216. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “216” of the Complaint.

**AS AND FOR A TWENTY-SECOND CAUSE OF ACTION**

217. In response to paragraph “217” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “216” inclusive, with the same force and effect as if more fully set forth at length herein.

218. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “218” of the Complaint.

219. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “219” of the Complaint.

220. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “220” of the Complaint.

**AS AND FOR A TWENTY-THIRD CAUSE OF ACTION**

221. In response to paragraph “221” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “220” inclusive, with the same force and effect as if more fully set forth at length herein.

222. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “222” of the Complaint.

223. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “223” of the Complaint.

224. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “224” of the Complaint.

225. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “225” of the Complaint.

226. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “226” of the Complaint.

227. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “227” of the Complaint.

228. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “228” of the Complaint.

229. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “229” of the Complaint.

230. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “230” of the Complaint.

231. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “231” of the Complaint.

232. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “232” of the Complaint.

**AS AND FOR A TWENTY-FOURTH CAUSE OF ACTION**

233. In response to paragraph “233” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “232” inclusive, with the same force and effect as if more fully set forth at length herein.

234. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “234” of the Complaint.

235. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “235” of the Complaint.

236. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “236” of the Complaint.

237. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “237” of the Complaint.

238. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “238” of the Complaint.

239. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “239” of the Complaint.

240. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “240” of the Complaint.

241. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “241” of the Complaint.

**AS AND FOR A TWENTY-FIFTH CAUSE OF ACTION**

242. In response to paragraph “242” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “241” inclusive, with the same force and effect as if more fully set forth at length herein.

243. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “243” of the Complaint.

244. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “244” of the Complaint.

245. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “245” of the Complaint.

246. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “246” of the Complaint.

247. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “247” of the Complaint.

248. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “248” of the Complaint.

249. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “249” of the Complaint.

250. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “250” of the Complaint.

251. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “251” of the Complaint.

252. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “252” of the Complaint.

253. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “253” of the Complaint.

254. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “254” of the Complaint.

255. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “255” of the Complaint.

256. Denies each and every allegation contained in paragraph “256” of the Complaint.

257. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “257” of the Complaint.

258. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “258” of the Complaint.

259. Denies each and every allegation contained in paragraph “259” of the Complaint.

260. Denies each and every allegation contained in paragraph “260” of the Complaint.

261. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “261” of the Complaint.

262. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “262” of the Complaint.



**AS AND FOR A TWENTY-SIXTH CAUSE OF ACTION**

263. In response to paragraph “263” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “262” inclusive, with the same force and effect as if more fully set forth at length herein.

264. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “264” of the Complaint.

265. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “265” of the Complaint.

266. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “266” of the Complaint.

**AS AND FOR A TWENTY-SEVENTH CAUSE OF ACTION**

267. In response to paragraph “267” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “266” inclusive, with the same force and effect as if more fully set forth at length herein.

268. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “268” of the Complaint.

269. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “269” of the Complaint.

270. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “270” of the Complaint.

271. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “271” of the Complaint.

272. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “272” of the Complaint.

273. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “273” of the Complaint.

274. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “274” of the Complaint.

275. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “275” of the Complaint.

276. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “276” of the Complaint.

277. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “277” of the Complaint.

278. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “278” of the Complaint.

279. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “279” of the Complaint.

280. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “280” of the Complaint.

**AS AND FOR A TWENTY-EIGHTH CAUSE OF ACTION**

281. In response to paragraph “281” of the Complaint, defendant repeats, reiterates and realleges each and every response to the allegations contained in paragraphs “1” through “280” inclusive, with the same force and effect as if more fully set forth at length herein.

282. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “282” of the Complaint.

283. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “283” of the Complaint.

284. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “284” of the Complaint.

285. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “285” of the Complaint.

286. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “286” of the Complaint.

287. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “287” of the Complaint.

288. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “288” of the Complaint.

289. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph “289” of the Complaint.

**AS AND FOR A FIRST SEPARATE DEFENSE**

290. That any injuries and/or damages sustained by the plaintiff, as alleged in the complaint herein, were caused in whole or in part by the contributory negligence and/or culpable conduct of said plaintiff and not as a result of any contributory negligence and/or culpable conduct on the part of this answering defendant.

**AS AND FOR A SECOND SEPARATE DEFENSE**

291. That by entering into the activity in which the plaintiff was engaged at the time of the occurrence set forth in the complaint, said plaintiff knew the hazards thereof and the inherent risks incident thereto and had full knowledge of the dangers thereof; that whatever injuries and damages were sustained by the plaintiff herein as alleged in the second amended complaint arose from and were caused by reason of such risks voluntarily undertaken by plaintiff in their activities and such risks were assumed and accepted by him in performing and engaging in such activities.

**AS AND FOR A THIRD SEPARATE DEFENSE**

292. In the event plaintiff recovers a verdict or judgment against this defendant, then said verdict or judgment must be reduced pursuant to CPLR 4545(c) by those amounts which have been, or will, with reasonable certainty, replace or indemnify plaintiff, in whole or in part, for any past or future claimed economic loss, from any collateral source such as insurance.

**AS AND FOR A FOURTH SEPARATE DEFENSE**

293. One or more of the causes of action are time barred pursuant to the applicable statute of limitations.

**AS AND FOR A FIFTH SEPARATE DEFENSE**

294. That if the plaintiff sustained the injuries complained of in the manner alleged, said injuries were caused by the negligence of parties over whom the answering defendant was not obligated to exercise supervision or control.

**AS AND FOR A SIXTH SEPARATE DEFENSE**

295. The complaint fails to state any cause of action against TRI as to which relief can be granted.

**AS AND FOR A SEVENTH SEPARATE DEFENSE**

296. Plaintiff has failed to take those steps available to it to mitigate damages. As a result, any damages must be reduced by any amount attributable to plaintiff's failure to mitigate.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

297. Plaintiff has waived any right to subrogation herein.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

298. The complaint is barred by the doctrines of laches and/or estoppel.

**DEFENDANT TRANSPORTATION RESOURCES, INC., BY**  
**WAY OF CROSS-CLAIM AGAINST DEFENDANTS**  
**T.C. JOHNSON COMPANY, MITCHELL EQUIPMENT CORPORATION,**  
**TEREX CORPORATION, KOEHRING CRANES, INC., d/b/a TEREX**  
**CRANES WAVERLY, TEREX CRANES, INC. :**  
**COUNT ONE**

299. If plaintiff sustained damages in the manner alleged in the complaint, all of which is denied by this answering defendant, such damages were caused by reason of

the negligence, breach of contract, obligation or warranty of the co-defendants above named.

300. By reason of the foregoing, this answering defendant is entitled to indemnification and/or contribution from, and to have judgment over against, the co-defendants above named, for all or part of any verdict or judgment that plaintiff may recover against this answering defendant.

**WHEREFORE**, defendant TRANSPORTATION RESOURCES, INC. demands judgment dismissing plaintiff's complaint, or in the event that plaintiff recovers a verdict or judgment against this answering defendant, then this defendant demands judgment over against the co-defendants above-named, together with the attorneys' fees, costs and disbursements of this action.

Dated: New York, New York  
August 17, 2007

Respectfully Submitted,

SEDGWICK, DETERT, MORAN & ARNOLD LLP



By: \_\_\_\_\_  
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TO:

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Mineola, New York 11501  
(516) 248-2002

**CERTIFICATE OF SERVICE**

I, Scott Haworth, hereby certify and affirm that a true and correct copy of the attached **DEFENDANT TRANSPORTATION RESOURCES, INC.'S ANSWER TO PLAINTIFF NATIONAL RAILROAD PASSENGER CORP.'S COMPLAINT** was served via regular mail on this 17th day of August, 2007, upon the following:

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Cranes Waverly  
And Terex Cranes, Inc.  
98 Willis Avenue  
Mineola, New York 11501  
(516) 248-2002



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SCOTT L. HAWORTH (SLH-5890)

Dated: New York, New York  
August 17, 2007